



# TEXAS HIGHER EDUCATION COORDINATING BOARD

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RQ-29

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Opinion Committee

February 7, 1991

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The Honorable Dan Morales  
Attorney General of Texas  
P.O. Box 12548  
Austin, Texas 78711-2548

RE: Opinion Request

Dear General Morales:

The Texas Higher Education Coordinating Board requests an attorney general's opinion regarding the annual selection of board officers of the Board of Trustees of the El Paso County Community College District. The question is as follows:

Is it permissible under the Texas Education Code or other applicable law for members of the board of trustees to be elected as officers of the board for one year terms?

The question does not relate to the election of members to the board, but to the subsequent election of officers by and among the board members themselves.

The code provision that addresses the election of officers states in pertinent part that:

The board shall elect one of its members as president of the board, and the president shall preside at meetings of said board and perform such other duties and functions as are prescribed by the board. The president of the board shall have a vote the same as the other members. The board shall elect a secretary of the board who may or may not be a member of the board, and who shall be the official custodian of the minutes, books, records, and seal of said board, and who shall perform such other duties and functions as are prescribed by the board. The board shall be authorized to elect any other officers as deemed necessary or advisable. Officers of the board shall be elected at the first regular meeting of the board following the regular election of members of the board in even-numbered years, or at any time thereafter in order to fill a vacancy.

TEX. EDUC. CODE ANN. Section 130.082(d) (Vernon 1990)  
(Emphasis added)

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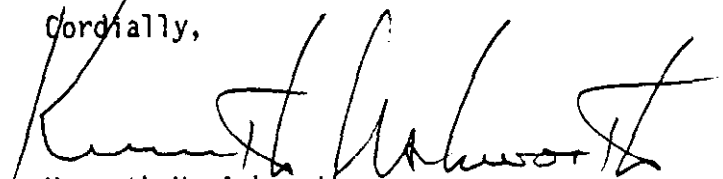
Trustee elections occur once every two (2) years. The present by-laws of the Board of Trustees provide for board officer elections in accordance with the language of Section 130.082(d): that is, officers are elected only once every two years after the regular election of members of the board.

A new by-law was proposed last year to authorize annual election of officers. Section 130.082(d) also permits the board to "adopt such rules, regulations and by-laws as it deems advisable, not inconsistent with this section." The above question, therefore, might be restated to ask if the proposed by-law is inconsistent with the other portions of Section 130.082. Another form of the question would ask whether the pertinent provision of 130.082(d) is mandatory or directory. The rationale for the new by-law is to allow the offices of board president, vice-president and secretary to rotate more frequently.

Section 130.082(d) requires a president and secretary to be elected, but the secretary need not be a board member. Other officers may be elected if deemed advisable. TEX. EDUC. CODE Section 130.082(d). The purpose of the office of president is to preside at meetings of the board, while the secretary "shall be the official custodian of the minutes, books, records and seal of said board, and who shall perform such other duties and function as prescribed by the board." TEX. EDUC. CODE Section 130.082(d). All board members have an equal vote. Id. Under this Section, a board could elect only a president from its members, elect a nonmember secretary, and create no other offices.

Other than Section 130.082(d) the Coordinating Board finds no other guidance regarding the election of officers of community college districts, and respectfully requests an opinion from the attorney general.

Cordially,



Kenneth H. Ashworth